

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE:

CHAPTER 7

CHARLES SAMUEL FILLINGANE
FREIDA LYNNE FILLINGANE
Debtors

CASE NO. 17-01095-EE

EILEEN N. SHAFFER, Trustee for the
Bankruptcy Estate of Charles Samuel Fillingane
and Freida Lynne Fillingane

PLAINTIFF

vs.

ADVERSARY PROCEEDING NO. _____

CHARLES SAMUEL FILLINGANE and
JOE MARTIN FREE, JR.

DEFENDANTS

**COMPLAINT FOR AUTHORITY TO SELL
PROPERTY PURSUANT TO 11 U.S.C. §363(h)**

COMES NOW, Eileen N. Shaffer, in her capacity as Trustee, by and through her attorney,
and files this her Complaint for Authority to Sell Property Pursuant to 11 U.S.C. § 363(h), and would
show unto the Court the following, to-wit:

Jurisdiction

I.

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is
a core proceeding under 28 U.S.C. § 157(b) (2) (E) and (F). This action is being filed pursuant to 11
U.S.C. §363(h) and Bankruptcy Rule 7001.

Parties

1. The Plaintiff herein is Eileen N. Shaffer, the Trustee appointed in the above
named and numbered bankruptcy proceeding.

2. Defendant herein, Charles Samuel Fillingane (“Fillingane”) is a legal adult resident citizen of Hinds County, Mississippi and may be served with process at his address of 52 Avery Circle, Jackson, Mississippi 39211.

3. Defendant herein, Joe Martin Free, Jr. (“Free”) is a legal adult resident citizen of Florida and may be served with process at his address of 154 Ethel Wingate Drive, Unit 401, Pensacola, Florida 32507.

Facts

4. That Fillingane and Martin became owners of real property located in Forrest County, Mississippi at 420 Oliver Avenue, Hattiesburg, MS on September 11, 2015 by Special Warranty Deed recorded in Book 1211, at Page 0367. A true and correct copy of the Warranty Deed and a detailed description of the property located at 420 Oliver Avenue, Hattiesburg, MS is attached hereto and incorporated herein as **Exhibit “A”**.

5. That Fillingane filed for relief under Chapter 7 of the United States Bankruptcy on March 21, 2017, being *Case No. 17-01095-EE*.

6. That Fillingane did not disclose his ownership of this property in his bankruptcy schedules¹.

COUNT 1.

7. That Fillingane and Martin own as joint tenants with right of survivorship and not as tenants in common, the property located at 402 Oliver Avenue, Hattiesburg, MS.

8. There are no known liens on said property.

9. The Forrest County Tax Assessor’s office has assessed a value of said property to \$34,950.00

¹ Schedules [Dkt. #6].

10. A partitioning in kind of said property is impracticable, and the sale of the estate's undivided interest would realize significant less for the estate than the sale of the entire property. The benefit of the estate out-weighs the detriment to co-owners and said property is not used in the production, transmission, or distribution for sale, of electric energy or of natural or synthetic gas for heat, light or power.

WHEREFORE, PREMISES CONSIDERED, Eileen N. Shaffer, Trustee, respectfully requests that this Court enter an order authorizing the sale of the property located located at 402 Oliver Avenue, Hattiesburg, MS, pursuant to 11 USC §363(h) with any perfected liens attaching to the proceeds, and for such other relief as is deemed just.

THIS the 6th day of August, 2018.

Respectfully submitted,

CHAPTER 7 TRUSTEE

BY: /s/ Eileen N. Shaffer
EILEEN N. SHAFFER
Attorney for Trustee

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